

May 12 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 10-0016

ORIGINAL

STATE OF MONTANA,

Plaintiff and Appellee,

v.

KIM A. NORQUAY,

Defendant and Appellant.

FILED

MAY 12 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Jennifer A. Hurley, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until July 19, 2010, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 12th day of May, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
139 N. Last Chance Gulch
P.O. Box 200145
Helena, MT 59620-0145

By: _____

JENNIFER A. HURLEY

Assistant Appellate Defender

STATE OF MONTANA)
 : ss.

County of Lewis and Clark)

I, Jennifer A. Hurley, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as an Assistant Appellate Defender.

2. In my capacity as Assistant Appellate Defender, I have been assigned to handle the above-entitled matter.

3. The Appellant's brief was first due on April 19, 2010. The brief is presently due on May 19, 2010. This is Appellant's second request for an extension. For the foregoing reasons and the complexity of the matter and counsel's current workload and schedule, Appellant requests a sixty-day extension.

4. This is an appeal of a conviction for deliberate homicide after a lengthy jury trial. It involves voluminous transcripts and exhibits as well as multiple pre-trial and post-trial motions and proceedings.

5. Additionally, this Court has granted two motions to supplement the record with additional transcripts. Counsel is awaiting the creation and filing of the second of additional transcripts to be filed this month pursuant to the Court's April 29, 2010 Order granting Appellant's motion to supplement.

6. In addition to the above-captioned matter, counsel currently has multiple briefs with deadlines over the course of the next sixty days, including a reply brief in *State v. Johnston*, DA 09-0352 (due May 19, 2010); a reply brief in *State v. McClelland*, DA 09-0518 (due May 31, 2010); an anticipated reply brief in *State v. Montgomery*, DA 09-0568; an opening brief in *State v. Dalton*, DA 10-0042 (due May 12, 2010); and an opening brief in *State v. Lamere*, DA 10-0153 (due June 3, 2010).

7. Counsel will be out of the country on a pre-scheduled vacation June 12 - 19, 2010. In light of this current workload, counsel has not been able to complete review of the record and briefing and consult with the client in time to file the brief by the current deadline.

8. I will work diligently to complete the matter in the time requested.

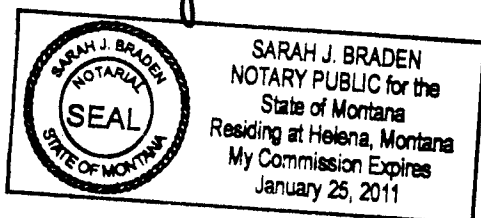
9. Opposing counsel has been contacted concerning this motion and does not object.

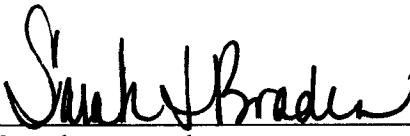
10. Further your affiant sayeth naught.


JENNIFER A. HURLEY

SUBSCRIBED AND SWORN to before me this 12th day of

May, 2010.




Sarah J. Braden

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

GINA DAHL
Hill County Attorney
315 4th Street
Havre, MT 59501

KIM NORQUAY 3001240
Montana State Prison
700 Conley Lake Road
Deer Lodge, MT 59722

DATED: 5/12/2010 Sarah J Brader